

1 RUSSELL E. MARSH, ESQUIRE
 Nevada Bar No. 11198
 2 SUNETHRA MURALIDHARA, ESQUIRE
 Nevada Bar No. 13549
 3 Email: russ@wmllawlv.com
 smuralidhara@wmllawlv.com
 4 WRIGHT MARSH & LEVY
 300 S. Fourth Street
 5 Suite 701
 Las Vegas, NV 89101
 6 Phone: (702) 382-4004
 Fax: (702)-382-4800
 7 Attorneys for Jan Rouven Fuechtener

8
 9 UNITED STATES DISTRICT COURT
 10 DISTRICT OF NEVADA
 11

12 UNITED STATES OF AMERICA,)	
)	CASE NO. 2:16-CR-00100-GMN-CWH
13 Plaintiff,)	
)	
14 vs.)	MOTION TO CONTINUE SENTENCING
)	(FIRST REQUEST)
15 JAN ROUVEN FUECHTENER,)	
)	
16 Defendant.)	
17)	

18 The defendant, Jan Rouven Fuechtener, by and through his attorneys of record, RUSSELL
 19 E. MARSH, ESQUIRE, and SUNETHRA MURALIDHARA, ESQUIRE, WRIGHT MARSH &
 20 LEVY, moves this Court to vacate the currently scheduled sentencing hearing set for Thursday,
 21 February 21, 2019 at 9:00 a.m., and set to a date and time convenient to this Court but no sooner than
 22 ninety (90) days from the current sentencing date. The government opposes this request in part.
 23 After consultation with AUSA Roohani, defense counsel have learned that the government is
 24 amenable to a continuance of one week until February 28, 2019. The government is unable to agree
 25 to a longer continuance, because AUSA Roohani represents that after March 1, 2019, the FBI Special
 26 Agent assigned to this case will be unavailable. Because undersigned counsel request a continuance
 27 of more than one week to prepare for sentencing, this request is filed as a motion. This is the first
 28 request for a continuance of the sentencing date sought by current defense counsel.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 On November 17, 2016, Mr. Fuechtener pleaded guilty under a plea agreement during trial.
3 ECF 142, 146. Specifically, he pleaded guilty to three counts: possession of child pornography, in
4 violation of 18 U.S.C. § 2252(a)(5)(B); receipt of child pornography, in violation of 18 U.S.C.
5 2252A (a)(2) and (b); and distribution of child pornography, in violation of 18 U.S.C. 2252A (a)(2)
6 and (b).

7 On November 1, 2018, undersigned counsel were retained by Mr. Fuechtener. ECF 306.
8 During the status conference held on that date, the Court set a firm sentencing date of February 21,
9 2019. ECF 306. The Court's Order also provides that both parties will provide expert notices 30
10 days prior to sentencing. *Id.* On November 13, 2018, this Court dismissed Mr. Fuechtener's second
11 motion to withdraw plea, ECF 282, without prejudice. ECF 310. The Court indicated that new
12 counsel may refile a motion to withdraw plea if desired. *Id.* Five weeks after the status conference,
13 on December 6, 2018, prior defense counsel provided Mr. Fuechtener's file to undersigned counsel.
14 This file contains three banker's boxes of material, including pertinent trial and hearing transcripts
15 defense counsel must review.

16 Since the current representation commenced, defense counsel have met with Mr. Fuechtener
17 at the Southern Nevada Detention Center in Pahrump multiple times to discuss sentencing strategy
18 and additional potential motions. Defense counsel have also started their review of prior court
19 transcripts and other documentation provided in the banker's boxes. Of note, the transcripts alone
20 exceed 1,000 pages. The review of the transcripts and other materials is needed to determine
21 whether additional motions are necessary and in preparation for sentencing. Further, prior counsel
22 has not lodged informal objections to the PSR and those must be considered and discussed with Mr.
23 Fuechtener and provided to U.S. Probation.

24 Additionally, defense counsel have also talked with and retained a number of potential
25 experts and consultants. Two of these consultants or experts are unavailable to meet with Mr.
26 Fuechtener until February 2019. Defense counsel are still interviewing and researching other experts
27 and consultants who may be needed for Mr. Fuechtener's sentencing. To remain compliant with the

28 ///

1 Court's Order, defense counsel request additional time for expert evaluation and timely production
2 of any reports to government counsel.

3 Lastly, defense counsel Sunethra Muralidhara is preparing for a state murder trial currently
4 scheduled for February 11, 2019, which is expected to last 5-7 days. Given the current status of Mr.
5 Fuechtener's case, he requests a continuance of 90 days. This request is not made in bad faith but
6 rather to give counsel sufficient time to review an extensive file, prepare for sentencing, and
7 zealously advocate for Mr. Fuechtener. Should the Court seek additional information in support of
8 this continuance, counsel is prepared to provide additional information for an *ex parte* in camera
9 review, so as to not disclose defense strategy in a public filing.

10 DATED this 25th day of January, 2019.

11 WRIGHT MARSH & LEVY

12
13 By /s/ Russell E. Marsh
14 RUSSELL E. MARSH, ESQUIRE
15 SUNETHRA MURALIDHARA, ESQUIRE
16 Attorneys for Jan Rouven Fuechtener
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of January, 2019, I caused a copy of the foregoing
MOTION TO CONTINUE SENTENCING (FIRST REQUEST) to be served via the Court's
CM/ECF electronic filing system addressed to all parties on the e-service list.

Ellie Roohani
Assistant United States Attorney
501 Las Vegas Boulevard South
Suite 1100
Las Vegas, NV 89101

BY /s/ Debbie Caroselli
An employee of Wright Marsh & Levy

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
JAN ROUVEN FUECHTENER,)
)
Defendant.)
_____)

CASE NO. 2:16-CR-00100-GMN-CWH

PROPOSED ORDER

The court having reviewed Defendant's Motion to Continue Sentencing, and good cause appearing,

IT IS HEREBY ORDERED that the sentencing hearing currently scheduled for Thursday, February 21, 2019, at 9:00 a.m. be vacated and continued to _____ at the hour of _____ .m

DATED this ____ day of _____, 2019.

GLORIA M. NAVARRO
CHIEF UNITED STATES DISTRICT JUDGE